

ORDINANCE NO. 1004

AN ORDINANCE OF THE CITY OF LODI PROVIDING FOR THE LICENSING AND
REGULATION OF MESSAGE ESTABLISHMENTS AND MESSAGE TECHNICIANS.

The City Council of the City of Lodi does ordain as
follows:

SECTION 1. DEFINITIONS: The definition set forth in
this article shall govern the construction thereof, unless
the context requires otherwise:

(a) MESSAGE ESTABLISHMENT DEFINED: As used in this
part, "Message Establishment" means: Any premises, place of
business, or membership club where there is conducted the
business or activity of furnishing, providing or giving for
a fee or other form of consideration, a massage, fomentation,
bath, manipulation of the body, electric or magnetic treatment,
alcohol rub or other similar massage service or procedure.

(b) MESSAGE ESTABLISHMENT EXCEPTION: The words
"Message Establishment" and the provision of this Part shall
not apply to any duly licensed physician, surgeon, osteopath,
chiropractor or to other persons duly licensed by the State
of California to treat, manipulate, operate upon, or prescribe
for the persons or bodies of human beings and who are actually
practicing said licensed profession or to graduate nurses, or
to students of medicine, surgery, osteopathy, chiropractic or
similar professional callings actually attending accredited
schools.

(c) MESSAGE TECHNICIAN DEFINED: As used in this Part, "Message Technician" means any person, male or female, who in connection with the activities of a message establishment administers to another person, a message, alcohol rub, fomentation, bath, electric or magnetic message procedure, manipulation of the body, or other similar procedure.

SECTION 2. PERMIT REQUIRED: No person shall operate a Message Establishment without first having obtained a written permit from the Chief of Police. There shall be only one (1) operator's license for each Message Establishment.

SECTION 3. APPLICATION:

(a) An application for a Message Establishment permit shall be filed with the Chief of Police and shall be in writing on forms provided by the City, and shall be accompanied by payment of fees as provided for herein. Any such application shall be under oath, in duplicate, and shall include the following:

- (1) The full name and present address of the applicant;
- (2) The two previous addresses immediately prior to the present address of applicant, and the dates of residence of each;
- (3) The names and addresses of at least three adult persons who will serve as character references. These references must be persons other than relatives and business associates;
- (4) Written proof that the applicant is over the age of eighteen (18) years;

(5) Applicant's weight, height, color of eyes and hair, date of birth;

(6) Name under which, and place where, said applicant proposes to operate a massage establishment, together with the street, city, county and state address where said applicant practiced or conducted any similar business, if any, within twenty-four (24) months immediately preceding the date of said application, and name under which the same was so conducted;

(b) The Chief of Police shall retain the original copy and then transmit duplicates to the Fire Chief and the Director of Planning for their investigation and approval.

SECTION 4. APPLICATION FEE: At the time of filing an application for a permit, the applicant shall pay a fee in accordance with the following:

For each permit the sum of \$50.00, plus \$15.00 for each person, other than an individual applicant, to be employed by the massage establishment.

SECTION 5. BUSINESS LICENSE: Nothing herein shall constitute a waiver of the requirements of Chapter 12 of the Lodi City Code requiring issuance and possession of a business license.

SECTION 6. INVESTIGATION: The Chief of Police shall investigate the applicant's background and qualifications and shall investigate the premises where the massage establishment is to be operated for the purpose of assuring that such location does not pose a police problem and that the business will be in the interest of the public health, safety and welfare.

The Chief of Police shall photograph and fingerprint the applicant and shall investigate and ascertain whether or not the applicant and all persons directly or indirectly interested in the permit or proposed business as owner, partners, officers, manager, employees, or other persons to be in charge of the premises are reputed to be persons of good moral character. He shall also ascertain whether or not any of such persons have been convicted of a felony or any crime involving fraud, embezzlement, or moral turpitude, including all offenses listed in Penal Code Section 290, any section or subsection of Section 314 through 318, subsections (a), (b), (c), or (d) of Section 647 of the Penal Code or any offenses involving prostitution, lewd conduct, or offenses resulting from a reduction of the aforementioned offenses, or whether such person shall have had a license or permit for a similar business or a liquor license suspended, cancelled, or revoked. A person convicted of any of the aforesaid offenses shall be deemed not to be of good moral character for the purposes of this Section.

The Fire Chief and Director of Planning within the jurisdiction and duties of their particular department, shall ascertain whether or not the premises to be used are suitable, proper, and adequate, and comply with applicable laws, ordinances, and regulations concerning such premises, and the activities to be conducted thereon.

SECTION 7. TIME WITHIN WHICH TO GRANT OR DENY LICENSE:

Within thirty (30) days after the filing of an application for a license, the Chief of Police shall review the application, together with reports and the recommendations of the Fire Chief and Director of Planning, and shall grant said permit or shall notify the applicant that he proposes to deny the permit. Said notice shall be in writing and sent by mail to the applicant's mailing address set forth in the application, and in the event of denial the notice shall contain a statement with his reasons for the denial. The applicant may appeal to the City Council in accordance with the provisions of Section 10 of this Part.

For the purpose of permitting the applicant to correct minor defects, on request of the applicant and his assurance that the matters objected to will be corrected, the Chief of Police may extend the time within which he is otherwise required to act on the permit application for a period not to exceed thirty (30) days.

SECTION 8. TERM OF PERMITS: An operator's license or permit shall be issued on a permanent basis, subject to revocation or suspension for cause. Upon transfer of a business by a licensed operator, the transferee must secure a new license or permit pursuant to this Part.

SECTION 9. REVOCATION OF PERMIT: Whenever the Chief of Police has probable cause to believe that a permittee hereunder has conducted or carried on the business of a massage establishment in violation of this article or has made a materially false statement on his application for a permit hereunder or has committed any crime of violence against another person

or any crime involving lewdness, indecent exposure or prostitution, or violated any law relating to or regulating such business, or is conducting or maintaining such business without due regard for the public health or the health of patrons or customers, or without due regard to proper sanitation or hygiene, he shall, in addition to other remedies provided in this article, immediately give permittee written notice, by certified special delivery mail, of a hearing to be held by the Chief of Police within five (5) days of the date of mailing to determine whether or not the permit should be revoked. This notice shall state the date, time and place of hearing and contain a statement of the facts upon which the Chief of Police has acted in calling the hearing. At the hearing the permit holder and any other interested person shall have the right to present evidence as to the facts upon which the Chief of Police proposes to revoke the permit, and any other facts which may aid the Chief of Police in determining whether this article has been violated and whether any of the above acts have occurred. If, after such hearing the Chief of Police finds that any or all of the acts have occurred, he shall within two (2) days after the hearing serve by certified mail upon permittee and all interested persons participating in the hearing and requesting same, a written statement of the facts upon which he bases such finding and shall immediately revoke the permit.

SECTION 10. APPEAL AND COUNCIL HEARING: Within five (5) days after receiving notification by certified mail that his or

its permit hereunder has been revoked, any permittee may file with the City Clerk a written notice of appeal from said revocation, addressed to the Council, requesting a public hearing before the Council on the appeal, and stating therein written exceptions to the findings of facts upon which the Chief of Police based his revocation of the permit. Said exceptions shall include but not be limited to statements why permittee believes the Chief of Police acted improperly or failed to act properly. Upon the filing of said notice of appeal, the Council shall fix a time, date and place for a public hearing thereon and shall send by certified mail to permittee a notice of the time, date and place of the hearing. The hearing shall be held at a regular meeting of the Council not more than fourteen (14) days from the date on which the notice of appeal was filed with the City Clerk. At the hearing, the permittee may present evidence in support of his stated exceptions and the reissuance of his permit. Any interested party, including the Chief of Police, may, in the discretion of the Council, be allowed to participate in the hearing and present evidence in support of or in opposition to the revocation. The burden of proof shall be on the Chief of Police. The Council, by resolution, shall no later than fifteen (15) days after the conclusion of the hearing make findings of fact and either affirm or reverse the Chief's revocation of permit. The Council, in said resolution, shall state the facts upon which its decision is based

and its ruling upon any exceptions filed to the Chief's original findings of fact upon the revocation. A copy of said resolution shall be served by mail upon the applicant and all parties to the hearing requesting the same.

The Council's decision by said resolution shall be final and conclusive.

SECTION 11. CERTIFICATE OF REGISTRATION FOR MASSAGE TECHNICIAN:

(a) Every person who desires to be employed as a Massage Technician shall make written application to the Chief of Police for a certificate of registration.

An individual possessing a current unrevoked permit required by Section 2 need not obtain a certificate of registration.

(b) The application shall be in the form prescribed in Section 3 and shall be accompanied by a fee of Fifteen Dollars (\$15.00).

SECTION 12. INVESTIGATION: The Chief of Police shall investigate the applicant's background and experience as provided in Section 6.

SECTION 13. TIME WITHIN WHICH TO GRANT OR DENY APPLICATION:

Within fifteen (15) days after the filing of an application for a certificate, the Chief of Police shall review the application and shall grant or deny said application. Notice of his actions shall be in writing and sent by mail to the applicant's mailing address set forth in the application, and in the event of denial, the notice shall contain a statement with his reasons for the denial.

SECTION 14. REVOCATION OF CERTIFICATE: The Chief of Police may revoke a certificate of registration issued under this ordinance upon determining that the certificate holder has violated, or caused or permitted any other person under his control or supervision to violate any provision of this ordinance, state or federal law in

connection with the practice of massage or operation of the massage establishment. The Chief of Police shall transmit by certified mail to the applicant's address as shown on the application or otherwise more recently on record, a written notice that said certificate of registration is revoked at the end of the fifth day after such mailing of the notice. A revoked certificate of registration shall be immediately surrendered to the Chief of Police.

SECTION 15. APPEAL: An applicant for or holder of a certificate of registration may within ten (10) days following mailing of notice of refusal or revocation by the Chief of Police appeal from the action of the Chief of Police to the City Council. The matter will be set for public hearing before said council at its next regular meeting, not sooner than the fifth day after such appeal is filed. Unless the council shall reverse the Chief of Police's action by majority vote, his decision shall be deemed affirmed. The burden of proof shall be on the applicant if the appeal is from a determination to refuse to issue; it shall be on the Chief of Police if the appeal is from a determination to revoke.

SECTION 16. POSTING OF SIGN AND PERMIT:

- (a) A recognizable and legible sign shall be posted at the main entrance identifying the establishment as a massage establishment.
- (b) The permit shall be posted in a conspicuous place in such a manner that it can be easily seen by persons entering the establishment.

(c) Persons acting in the capacity of massage technicians shall have the certificate of registration issued them in their possession during the hours they are acting as such in a massage establishment.

SECTION 17. HOURS: No person shall conduct or operate a Massage Establishment between the hours of 2:00 AM and 7:00 AM of the same day.

SECTION 18. INSPECTION: Any person operating a Massage Establishment shall during business hours be responsible for, and provide that any premises used for the purposes of a massage establishment shall be readily accessible and open for inspection by law enforcement officers or other employees of the City of Lodi who are charged with enforcement of health and safety or penal laws of the City of Lodi or State of California.

SECTION 19. TRANSFER OF PERMIT: No permit issued under this ordinance shall be transferred or assigned in any manner, whether by operation of law or otherwise, from location to location or from person to person.

SECTION 20. NOTICE OF EMPLOYEES' STATUS: Every person holding a permit issued pursuant to Section 2 shall report immediately in writing to the Chief of Police the employment or termination of massage technicians practicing in such establishment.

SECTION 21. APPLICATION OF ORDINANCE TO EXISTING BUSINESSES: The provisions of this ordinance shall be applicable to all persons and businesses described herein whether the herein described activities were established before or after the effective date of this ordinance.

SECTION 22. UNLAWFUL ACTS: It shall be unlawful for any person to engage in, conduct, or carry on, in or upon any premises within the City of Lodi, the business of a Massage Establishment or act as a Massage Technician without first obtaining and possessing a valid permit issued pursuant to this Part, or without complying with any and all regulations contained in this Part.

SECTION 23. SEVERABILITY: If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the other remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, subdivision, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, or phrases be declared unconstitutional.

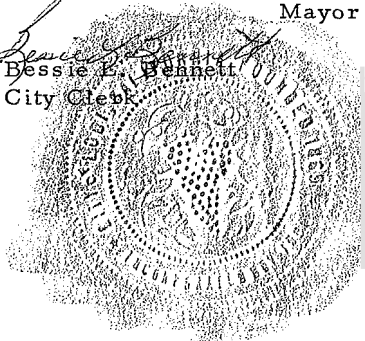
SECTION 24. This ordinance shall be published one time in the "Lodi News-Sentinel", a daily newspaper of general circulation printed and published in the City of Lodi and shall be in force and take effect thirty (30) days from and after its passage and approval.

Approved this 2nd day of May, 1973.

Richard L. Hughes

RICHARD L. HUGHES
Mayor

Bessie E. Bennett
Bessie E. Bennett
City Clerk

The seal of the City of Lodi, California, is a circular emblem. It features a central shield with a sun rising over a river, flanked by two sheaves of wheat. The shield is encircled by a border containing the text "CITY OF LODI, CALIFORNIA" and the date "JULY 1850".

State of California,

County of San Joaquin, ss.


I, Bessie L. Bennett, City Clerk of the City of Lodi do hereby certify that Ordinance No. 1004 was introduced at a regular meeting of the City Council held April 18, 1973, and was thereafter passed, adopted and ordered to print at a regular meeting held May 2, 1973, by the following vote:

Ayes: Councilmen - EHRHARDT, PINKERTON,
SCHAFFER and HUGHES

Noes: Councilmen - None

Absent: Councilmen - KATNICH

I further certify that Ordinance No. 1004 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.


Bessie L. Bennett
City Clerk

